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DETAILED EXPLANATION
OF AAA AMENDMENTS

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Detailed Explanatory Statement of Provisions of the Bill (S.3326) to amend the Agricultural Adjustment Act.

(1) Amendment to Benefit Contract Provision

Section 1 provides for the addition of a new sentence to the present benefit contract section, (i.e., Section 8 (1) of the Agricultural Adjustment Act). The new sentence will make it plain that we can seek to prevent a dislocation of the competitive situation in non-basic commodities resulting from the reduction in acreage or production of basic commodities under benefit contracts. The new sentence will make it clear that the Secretary of Agriculture may, in benefit contracts with farmers, provide for limitation or reduction of the acreage or production of non-basic commodities as well as of the basic commodity or commodities for the control of the production of which a contract is primarily designed.

(2) Changes in Marketing Agreement and Licensing Sections

Section 2 provides that the present sections 8 (3) and (4) of the Agricultural Adjustment Act (covering, respectively, the licensing powers and the power to require reports as to books and records) shall be stricken out and a new subsection (3) be inserted in their stead. The new subsection (3) is divided into seven paragraphs.

The first paragraph of subsection 3, lettered (A), follows the language of the first two sentences of Section 8 (3) of the present Act except in the following respects:

(a) It states clearly the implied power the Secretary has under the present licensing provision to prohibit those who have no licenses (when licenses are required) from engaging in the handling of agricultural commodities so as to affect interstate or foreign commerce. Section 8 (3) of the Act, as it now reads, covers the licensing of certain designated classes of persons engaged in the handling "in the current of interstate or foreign commerce". Similar language was contained in Section 8 (2) relating to marketing agreements until that section was recently amended by the enactment of the Jones-Connally Act. That Act changed the marketing agreement section so that it now relates to those engaged in the handling of commodities "in the current of or in competition with, or so as to burden, obstruct, or in any way affect interstate or foreign commerce". Because of the insertion of these additional words in the marketing agreement section, it is especially desirable that similar words be inserted in the licensing section.

(b) Paragraph (A) also makes plain the fact that the Secretary of Agriculture may license only those producers who are processors or distributors.

(3) This paragraph (A) also provides for notice and hearing prior to the issue of a license. This requirement is contained in the present Act only in respect to marketing agreements. It is felt that in the interest of uniformity in the application of the marketing agreement and license provisions it would be wise to insert a requirement of notice and hearing in the licensing sections.

(4) Certain language of the original Section 8(3) has been eliminated. As that section now reads, "licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof."

Because it has been argued they have a limiting effect, the amendment provides that the following words shall be omitted: "not in conflict with existing Acts of Congress or regulations pursuant thereto" and "eliminate unfair practices or charges that prevent or tend to prevent the effectuation of".

The changes proposed by paragraph ((A) may be conveniently shown in the following, in which (1) portions of the existing law proposed to be omitted have been struck through by oblique lines: (2) new matter is underscored; and (3) provisions of the existing law in which no change is proposed are in ordinary type and not underscored:

"(A) After due notice and opportunity for hearing, (I) to prohibit processors, distributors (including producers and associations of producers, who are processors or distributors), and others from engaging, in the handling of any agricultural commodity or product thereof, or any competing commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect interstate or foreign commerce, without a license and (II) to issue licenses to permit processors, distributors (including producers and associations of producers who are processors or distributors), and others to engage in such handling upon such terms and conditions as the Secretary of Agriculture may deem necessary to effectuate the declared policy of this Act and the restoration of normal economic conditions in the marketing, and/or financing of such commodities or products."

The second paragraph of Section 2, lettered (B), merely states the power, now contained in the second sentence of Section 8 (3) of the present Act, of revocation or suspension of a license after notice and hearing.

The third paragraph of Section 2, lettered (C), provides specifically that we may incorporate proration provisions affecting purchases from producers in any licenses relating to rice, milk and its products, peanuts, flax, dry edible beans, vegetables, fruits, or naval stores, but not in licenses affecting other commodities. In other words basic commodities such as wheat, cotton, tobacco, and hogs may not have proration schemes, affecting purchases from

producers, applied to them under the Agricultural Adjustment Act. This paragraph further provides that even in the case of the commodities listed in (C), such prorations can be imposed by a license only when two-thirds of the producers, or producers controlling more than two-thirds of the acreage or production for market, of the commodity involved, are in favor of such provisions.

In the case of most of the commodities specified in (C), the regulation of market supplies through marketing agreements and the licensing of processors and distributors is a more practical and effective means of improving the income of the producers of these commodities than the use of processing taxes and benefit payments.

Such quotas and allotments make it possible to

(1) Regulate the total supply marketed to the effective demand of consumers, thus preventing demoralization of markets and inevitable loss to all producers;

(2) Insure to each producer equal opportunity to participate in the increased returns to the industry resulting from effective surplus control.

Some of the proposed future uses of such quotas and allotments can be briefly illustrated.

Potato producers in practically all sections of the country, including Maine and the other New England States, New York, New Jersey, Maryland, Virginia, North and South Carolina, Florida, Kansas, Oklahoma, Minnesota, Idaho, Colorado and California, have requested that some program for regulating the quantities of potatoes marketed from the various areas be developed.

Producers of dry edible beans of the States of Michigan, New York, Colorado, New Mexico, Wyoming, Montana, Idaho and California have under consideration at the present time proposed marketing agreements designed to increase producer returns through the control of supplies marketed.

Pear producers on the Pacific Coast, including the States of Oregon, Washington and California, are proposing a marketing agreement for Bartlett pears.

The chief provision of this proposed agreement is the control of the large surplus in prospect for 1934 and subsequent years. Without such control, returns to the entire Bartlett pear industry on the Pacific Coast for some years to come are likely to be distressingly low.

In the case of fruits which are stored between the time of harvesting and sale to consumers, such as apples, winter pears and dried fruits, regulation of shipments from week to week from points of production, as is now provided in marketing agreements relating to perishable fruits and vegetables, is not practical and can not be effectively used in improving returns to producers. With such fruits the establishment of quotas or allotments for the entire marketing season, offers the most feasible means of correcting the unsatisfactory situation faced by the producers of these fruits in seasons of excessive supplies.

In addition to the examples cited above, this amendment will be equally applicable to marketing agreements and licenses relating to naval stores produced principally in the States of South Carolina, Georgia, Florida, Alabama, and Mississippi; peanuts produced principally in Virginia, North Carolina, Alabama Florida, Georgia, Texas, Oklahoma and Tennessee; and a wide variety of vegetables grown in important producing areas throughout the country.

The production and distribution of milk and its products is nationwide. Approximately 25 percent of the total income of all farmers in the United States is derived from the sale of dairy products. Approximately 4,500,000 of the 6,000,000 farms in the United States have one or more milk cows. In 40 States there are no State milk control boards regulating the production and distribution of milk and cream. Existing licenses issued by the Secretary cover approximately 25 percent of the total amount of milk sold and distributed for fluid consumption in all those 40 states combined. A large number of other markets have requested similar licenses.

When an industry-wide production control plan is undertaken for dairying, it will be highly important that the milk sold and distributed under federal

milk licenses be coordinated with such production control plan. In order to do this it may be necessary to adopt some form of proration or allotment of quotas among the farmers producing milk for sale in the markets regulated by the federal milk licenses.

Whether or not quotas or allotments will be established in any or all of the commodities specified in the amendment is left entirely to the determination of a substantial majority of the producers of those commodities, inasmuch as the authority for the establishment of quotas or allotments is contingent upon the approval of two-thirds of the producers or producers controlling two-thirds of the acreage or production for market of the commodity in question. In other words, such allotments or quotas cannot be established unless the producers of these commodities are convinced that such establishment is the only effective means of avoiding disastrous returns to them.

The fourth paragraph, of subsection (3) lettered (D), provides, in substantially the same terms as those of the last sentence of Section 8 (3) of the present Act, for penalties as to violators of licenses. This paragraph contains additional provisions designed to prevent attempts to circumvent the present provisions.

The fifth paragraph, lettered (E), incorporates the provisions of the Section 8 (4) of the present Act, as to the submission of reports and the keeping of accounts, and also makes clear the powers which the Secretary has exercised in licenses heretofore issued; to avoid legal defense thereto which may lead to prolonged litigation, it is highly desirable that these powers be explicitly set forth. It is extremely important in the administration of licenses that the Secretary get accurate information, in the manner provided in (E), as to the conduct of the licenses under a license. This paragraph also provides that any information acquired by the Secretary of Agriculture under this provision is to be kept confidential (substantially following the provisions of the present Revenue laws in this respect) and provides for a fine and for

the removal from office of any officer or employee of the Department violating this prohibition.

The sixth paragraph, of subsection (3), lettered (F), confers jurisdiction upon the District Courts to enjoin any person from handling a commodity without a license when, pursuant to the provisions now contained in the Act, the Secretary has prohibited him from such handling without a license.

The last paragraph, of subsection (3), lettered (G), contains a purely technical provision making clear that the remedies under the licensing powers are not exclusive.

Section 3 simply remembers a subsection (4) the old subsection (5) of Section 8 of the Agricultural Adjustment Act.

(3) Assessment of License Expenses

Section 4 makes explicit the power of the Secretary of Agriculture to assess upon persons engaged in any industry, their prorata shares of local administrative expenses incident to any license imposed upon the industry.

(4) Payment to Producer Associations

Section 5 is a purely technical amendment designed to make clear the right of the Secretary of Agriculture to pay the expenses of production control associations (associations of producers established to carry out the reduction control programs) by advancing funds to these associations without meeting the ordinary governmental requirements that expenses can be paid only in the form of reimbursement of actual outlays of funds. This section 5, as redrafted in the form recently submitted to the Committee, has been approved by the General Accounting Office.

(5) Change of Definition of Processing

Sections 6 and 7 are technical amendments providing for a change in the definition of the word "processing" as applied to certain commodities. Under the present Act the processing of these commodities, for purposes of the processing taxes, is defined as the processing thereof "for market". In certain instances

this has resulted in inequities as between producers. It is considered desirable to provide instead that these commodities shall be subject to the processing tax when processed for distribution or use. It is believed that this amendment will, particularly in connection with the processing tax on hogs, make it possible to exclude many producers from the category of processors and so eliminate the necessity of their filing returns under the processing tax, and it will at the same time protect the revenue by making it possible to prevent many ways of avoiding the tax by processors.

(6) Amendment of Parity Price Goal

Sections 8 and 9 will amend the parity price goal of the Agricultural Adjustment Act so that current farm labor costs, interest payments on farm indebtedness, and taxes on farm property (as well as the cost of articles farmers buy) will be reflected in parity prices. Labor costs, indebtedness and taxes have undoubtedly increased considerably since the parity period, but under the present Act only the cost of articles farmers buy is reflected in the parity price which the Administration seeks to achieve for producers. The farmer exchanges his product not only for industrial commodities but also for services. About three-fourths of his returns from a unit of farm products goes for the purchase of commodities for the farm, home and for farm production. The balance is largely spent for such costs as hired labor, taxes, interest charges. The last two costs have risen much farther above their levels in the base period than have industrial commodity prices. Therefore, to recognize these four groups of farm expenditures, namely, expenditures for commodities, hired labor, interest and taxes will tend to give agriculture returns per unit more nearly in line with actual costs of production.

(7) The explanation of Section 10 is as follows:

As stated heretofore, paragraph (A) of Section 2 of the bill makes specific reference to "distributors" in the license provisions of the Act. This makes it important that the marketing agreement section of the Act, as recently amended by

the Jones-Connally Act, be further amended by the insertion of the word "distributors".

(8) Tax Collection Amendments.

We have recommended that the Committee insert as amendments now Sections 11, 12 and 13, in the bill. These provisions have been approved and requested by the Bureau of Internal Revenue, and are technical amendments to the Agricultural Adjustment Act which are designed to perfect the administration of the tax provisions of that Act.

Section 11 prohibits the refund of any tax which has been passed on to a purchaser (except refunds on exportation and on floor stocks held upon the date any tax is terminated) unless a showing is made that the purchaser will get the benefit of the refund. This principle applies to sales tax refunds, under section 621 (e) of the Revenue Act of 1932. The Supreme Court recently had before it (Jefferson Elec. Mfg. v. U.S.) a similar provision under the 1928 Act, held it valid, and declared it represented sound and sensible policy.

This section also places periods of limitation on claims and suits for refunds or credits of amounts not representing overpayment - for example, refunds on exports, on floor stocks held at the termination of a processing tax, and on deliveries for charitable distribution. Existing limitations (R.S. 3226 and 3228) apply only to overpayments, and those are not refunds of overpayments, Consequently suit may be brought within 6 years, Claim is required under the proposed amendment to be filed within 60 days, which is fair in these cases where the right does not depend on disputed questions of law, but arises by reason of a transaction in the course of business which ought to be handled with business promptness. The period for bringing suit applicable to refund of erroneous collections is made applicable to these refunds. Interest on these refunds is prohibited.

Sections 12 and 13 clarify the refund and abatement provisions of sections 15 (a) and (16 (a) (2) of the Agricultural Adjustment Act.